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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/654,959	09/05/2003	Morton M. Mower	06809-0029-00000	7929

22852 7590 09/27/2006

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EXAMINER

HOLMES, REX R

ART UNIT PAPER NUMBER

3762

DATE MAILED: 09/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/654,959

Applicant(s)

MOWER, MORTON M.

Examiner

Rex Holmes

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>6/20/06; 4/11/06; 3/5/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 4/11/2006 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein that has been struck-through has not been considered.
2. The information disclosure statements (IDS) submitted on 6/20/2006 and 3/5/2004 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements are being considered by the examiner.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-41 are rejected under 35 U.S.C. 102(b) as being anticipated by Kieval (U.S. Pat. 5,814,079).
5. Regarding claims 1-41, Kieval discloses a cardiac arrhythmia management apparatus containing a processor (Fig. 3, 224) and method that is carried out by the means of and steps for managing tachyarrhythmias employing anodal stimulation (AS)

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energy comprising: detecting depolarizations of a chamber of a patient's heart which may be susceptible to a tachyarrhythmia (Fig. 2, 144, 146); providing a sense signal in response to a cardiac depolarization (Col. 5, ll. 8-25); timing an AS delivery time interval from the sense signal (Fig. 3, 212); generating AS energy therapies having characteristics insufficient to elicit a depolarization of myocardial cells of the heart but sufficient to effect hyperpolarization of myocardial cells (suppression); and delivering the AS pulse to the heart during AS delivery time intervals (Col. 18, ll. 23-33).

6. In a further refinement of the treatment, the delivery of the AS pulses is predicated upon determining an abnormal cardiac rhythm precursor from the sense signals, e.g., a threshold high intrinsic or unstable heart rate, etc., representing the potential onset of a more serious tachyarrhythmia (Col. 5, ll. 8-25). It is further disclosed that the sensing can occur in one chamber and the suppression pacing can occur in another chamber (Col. 20, ll. 29-35). It is also disclosed that once a threshold is reached the suppression is ceased (Col. 20, ll. 29-35). It is further disclosed that the sensing and the pacing can occur in either the atrium or ventricle of either the left, right or both halves of the heart (Col. 8, ll. 55-67).

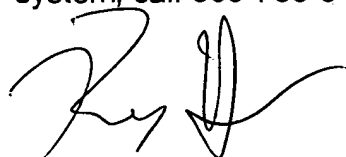
7. Kieval further discloses that apparatus and method described above may be used in a single chamber or dual chamber system. It further discloses that it can be set up to detect P-waves of atrial depolarization and deliver pacing and cardioversion therapy to the ventricles (Col. 8, ll. 55-67). Kieval also discloses that following the suppression another pulse can be generated to stimulate contraction in a ventricle (Col. 11, ll. 53-64; Col. 5, ll. 8-25; Claim).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rex Holmes whose telephone number is 571-272-8827. The examiner can normally be reached on M-F 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on 571-272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Rex Holmes



George Evanisko

Primary Examiner

9/21/06